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Attorneys for Defendant
TESLA INC.

[additional counsel listed in signature block]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ZACHERY WILLIAMS, MICHAEL MA, and
JOHN DITEMAN, on behalf of themselves and
all others similarly situated,

Plaintiffs,

v.

TESLA, INC. and DOES 1 through 10,
inclusive,

Defendants.

Case No. 4:20-cv-08208-HSG

**STIPULATION AND ~~{PROPOSED}~~ ORDER
**AS MODIFIED BY THE COURT TO
STAY PLAINTIFF ZACHERY WILLIAMS'
AND JOHN DITEMAN'S CLAIMS,
SETTING A BRIEFING SCHEDULE FOR
TESLA'S MOTION TO DISMISS MA'S
CLAIMS, AND TO CONTINUE THE CASE
MANAGEMENT CONFERENCE**

1 IT IS HEREBY STIPULATED by and between Plaintiffs Zachery Williams, Michael Ma,
2 and John Diteman ("Plaintiffs") and Defendant Tesla Inc. ("Tesla") (collectively, the "Parties"), by
3 and through their respective counsel of record, that:

4 WHEREAS, on November 20, 2020, Plaintiffs filed their complaint (Dkt. 1);

5 WHEREAS, on November 25, 2020, Plaintiffs filed their Amended Complaint (Dkt. 7);

6 WHEREAS, on June 21, 2021, the Court granted Tesla's motion to dismiss Ma's claims with
7 leave to amend several of the claims within 28 days of the date of the order (Dkt. 44);

8 WHEREAS, Plaintiffs filed their Second Amended Complaint ("SAC") on July 19, 2021,
9 adding Plaintiff John Diteman (Dkt. 49);

10 WHEREAS, on August 3, 2021, the Court granted the parties stipulation continuing Tesla's
11 deadline to respond to the SAC to August 16, 2021;

12 WHEREAS, the Initial Case Management Conference is currently set for August 24, 2021;

13 WHEREAS, the parties have engaged in substantive and productive discussions about
14 Plaintiffs' claims and continue to engage in those discussions;

15 WHEREAS, as the parties have discussed on several occasions, Tesla intends on filing a
16 motion to dismiss Plaintiff Ma's claims as alleged in the SAC ("Ma Motion to Dismiss") and a
17 motion to compel Plaintiffs Williams' and Diteman's claims to arbitration;

18 WHEREAS, after meeting and conferring, the parties stipulate and agree that it would
19 conserve judicial and party resources and promote efficiency if the Court stays Plaintiffs Williams'
20 and Diteman's claims until after it issues its order on the Ma Motion to Dismiss. The parties agree
21 that the Court's ruling on the Ma Motion to Dismiss may impact whether Tesla's motion to compel
22 Plaintiffs Williams' and Diteman's claims to arbitration needs to be presented to the Court;

23 WHEREAS, the parties further stipulate and agree, that after disposition of Tesla's Ma
24 Motion to Dismiss, the parties will meet and confer about whether Tesla's motion to compel
25 Plaintiffs' Williams' and Diteman's claims to arbitration needs to be presented to the Court;

26 WHEREAS, if Tesla files its motion to compel arbitration and that motion is denied, Tesla
27 agrees it will not file a motion to dismiss Williams' or Diteman's claims. If Tesla believes there is a
28 basis to challenge Williams' or Diteman's pleadings that were not addressed by the Court's ruling on

1 the Ma Motion to Dismiss, Tesla will file a motion for judgment on the pleadings within the time
2 limits permitted by the Federal Rules;

3 WHEREAS, nothing in this stipulation shall prevent the parties from pursuing their appellate
4 rights, if any, to challenge the Court's ruling on Tesla's motion to compel arbitration;

5 WHEREAS, the parties further stipulate and agree, subject to Court approval, to the
6 following briefing schedule for the Ma Motion to Dismiss:

- 7 • Tesla's Ma Motion to Dismiss: August 23, 2021;
- 8 • Plaintiffs' opposition to the Ma Motion to Dismiss: September 20, 2021
- 9 • Tesla's Reply in Support of the Ma Motion to Dismiss: October 7, 2021;

10 WHEREAS, the parties further stipulate and agree, that it would also conserve judicial and
11 party resources and promote judicial efficiency if the Court continues the Case Management
12 Conference currently scheduled for August 24, 2021 to November 9, 2021 (approximately 30 days
13 after Tesla submits its reply ISO Ma Motion to Dismiss);

14 THEREFORE, the Parties respectfully request the Court to order that:

15 (1) Plaintiff Williams' and Diteman's claims are stayed until after the Court issues its order
16 on the Ma Motion to Dismiss;

17 (2) Within fourteen days of the Court issuing its order on the Ma Motion to Dismiss, the
18 parties will file a joint report informing the Court whether they believe Tesla's motion to
19 compel Williams' and Ditemna's claims to arbitration needs to be presented to the Court,
20 and if the parties believe Tesla's motion to compel Plaintiff Williams' and Ditemtan's
21 claims to arbitration needs to be presented to the Court, the parties will submit a
22 requested briefing and hearing schedule to the Court;

23 (3) The briefing schedule for the Ma Motion to Dismiss is as follows:

- 24 • Tesla's Ma Motion to Dismiss: August 23, 2021;
- 25 • Plaintiffs' opposition to the Ma Motion to Dismiss: September 20, 2021
- 26 • Tesla's Reply in Support of the Ma Motion to Dismiss: October 7, 2021

27 (4) The Case Management Conference is continued to November 9, 2021.

28 IT IS SO STIPULATED.

1 Dated: August 6, 2021

Respectfully submitted
McCUNE WRIGHT AREVALO, LLP

3 By: /s/ David C. Wright

4 Mark I. Richards
Steven A. Haskins
David C. Wright

6 Attorneys for Plaintiffs
ZACHERY WILLIAMS and MICHAEL MA

7 Dated: August 6, 2021

SHOOK HARDY & BACON L.L.P.

8 By: /s/ Michael L. Mallow

9 Amir Nassihi
Michael L. Mallow
Rachel A. Straus
10 Nalani Crisologo

11 Attorneys for Defendant
12 TESLA, INC.

13
14 Pursuant to L.R. 5-1(i)(3), I attest that concurrence in the filing of this document has been
15 obtained from the other signatories.
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17 By: /s/ Michael L. Mallow
18 Michael L. Mallow
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~~PROPOSED~~ ORDER

Having considered the parties' stipulation, and good cause showing, the Court hereby orders the following:

(1) Plaintiff Williams' and Diteman's claims are stayed until after the Court issues its order on the Ma Motion to Dismiss;

(2) Within fourteen days of the Court issuing its order on the Ma Motion to Dismiss, the parties will file a joint report informing the Court whether they believe Tesla's motion to compel Williams' and Ditemna's claims to arbitration needs to be presented to the Court, and if the parties believe Tesla's motion to compel Plaintiff Williams' and Ditemtan's claims to arbitration needs to be presented to the Court, the parties will submit a requested briefing and hearing schedule to the Court;

(3) The briefing schedule for the Ma Motion to Dismiss is as follows:

- Tesla's Ma Motion to Dismiss: August 23, 2021;
- Plaintiffs' opposition to the Ma Motion to Dismiss: September 20, 2021
- Tesla's Reply in Support of the Ma Motion to Dismiss: October 7, 2021

(4) The Court sets the hearing for Tesla's Ma Motion to Dismiss on November 18, 2021 at 2:00 p.m. in Courtroom 2 on the Fourth Floor, at 1301 Clay Street, Oakland.

(5) The Case Management Conference is continued to November 18, 2021 to be held along with the hearing on Tesla's Ma Motion to Dismiss. The Court directs the parties to submit a joint case management statement by November 11, 2021.

1 IT IS SO ORDERED.

2
3 Dated: August 11, 2021


HONORABLE HAYWOOD S. GILLIAM JR.
U.S. DISTRICT COURT JUDGE